

Summer Food Service Program Appeal Procedures

A Summer Food Service Program (SFSP) applicant, sponsor, or vendor may appeal certain actions taken against it by the California Department of Education (CDE), Nutrition Services Division (NSD). The CDE/SFSP shall advise the applicant, sponsor or vendor of its action. The notice of action shall be sent certified mail with a statement advising the applicant, sponsor or vendor of the right to appeal the action.

CDE/NSD has contracted with the Office of Administrative Hearings (OAH) to conduct the hearings. The appeal can consist of either a written review, oral hearing or written review with oral argument.

The request for an appeal should be made only after all efforts to administratively resolve the issue(s) have been exhausted. The request must be in writing and be postmarked no later than **fourteen (14) calendar days** after receipt of the notice of adverse action or receipt of the review/audit findings.

The request for an appeal concerning the denial of an **application to participate, site participation, all or part of an advance, or food vendor** must be sent to:

California Department of Education
Nutrition Services Division
Appeals Section
Summer Food Service Program Unit
560 J Street, Suite 270
Sacramento, CA 95814

A request for an appeal concerning the **claim for reimbursement** resulting from an audit or agency review must be sent to:

California Department of Education
Nutrition Services Division
Appeals Section
Audit Closure Unit
560 J Street, Suite 270
Sacramento, CA 95814

The CDE/NSD will acknowledge the receipt of the appeal request within **five (5) calendar days**. The sponsor will be able to continue operation of the food program during the appeal process. Any information on which CDE/NSD's action was based will be available to the sponsor for review.

The appellant should choose one of the following three appeal processes:

1. **Written Review:** The appellant and the CDE/NSD submit written statements with supporting documentation to present their positions. The appellant's documents must be submitted no later than **seven (7) calendar days** after the receipt of the notice of adverse action. The documentation must be sent to:

Office of Administrative Hearings
560 J Street, Room 300
Sacramento, CA 95814

All documents which have been submitted within **seven (7) calendar days** and pertain to the issue(s) in dispute, will be reviewed by a Hearing Officer of the OAH.

2. **Oral Hearing:** An oral hearing is a full evidentiary hearing. It provides the appellant and the CDE/NSD the opportunity to present witnesses and documents, and cross-examine witnesses before a Hearing Officer of the OAH. Each witness provides oral testimony under oath. All of the testimony and the documents presented at the hearing must be relevant to the hearing issue(s). The appellant may represent itself or by legal counsel. The Hearing Officer's decision will be based on the testimony and documentation submitted at the hearing.

An oral hearing will be held only if it is requested on the Appeal Request. If an oral hearing has been requested, OAH will provide the appellant and CDE with at least **five (5) calendar days** advance written notice of the time, date, and place of the hearing. The notice will be sent by certified mail, return receipt requested.

3. **Written Review With Oral Argument:** This process is similar to an appeal by written review whereby a written statement is required. The oral argument portion of the proceeding is an opportunity for the parties to **clarify points that have been presented in their written statement**. Because of the informality of this process, the oral statement is considered only as an argument. The parties may not present testimony and they will not be allowed to call or cross-examine witnesses. It is recommended that each party prepare a written closing brief, which will assist it in summarizing the main points of its argument and persuading the Hearing Officer to render a decision in its favor.

The Hearing Officer has the authority to select another appeal process if he/she determines the issues cannot be fully discussed or clarified under the original appeal process chosen.

OAH will hold an oral hearing or written review with oral argument within **fourteen (14) calendar days** from the date of CDE/NSD's receipt of the request for appeal. Failure to attend the scheduled hearing shall constitute a waiver of the right to personal appearance before OAH, unless OAH agrees to reschedule the hearing.

The Hearing Officer shall make a determination based on the information provided by CDE/NSD, the appellant, and on program regulations. The determination by the Hearing Officer is the final administrative determination available to the appellant. OAH will notify the appellant of the determination within **five (5) working days**.

To ensure that all information needed by OAH is acquired and due process is rendered, CDE will include Appeal Procedures and a Sample Format for Appeal Request with the notification of adverse action.

If additional information or further clarification is needed, contact the Summer Food Service Program Unit at (916) 327-6465 or leave a message at (800) 333-5675.

APPEAL REQUEST

1. Sponsor/Vendor

- a. Legal name of sponsor/vendor: _____
- b. Address: _____
- c. Agreement No: _____

2. Statement of Purpose

a. Type of appeal requested: (Check one box)

() Written Review () Oral Hearing () Written Review With Oral Argument

b. Specifically, what is (are) the issue(s) being appealed? Attach a separate sheet if necessary.

What is the reason for the appeal? Attach a separate sheet if necessary.

3. Explain in this section the events that led up to your decision to appeal the action taken against the agency. Attach a separate sheet if necessary.

4. If an oral hearing or a written appeal with oral arguments is requested, please complete:

a. Representative (Name of person who will be officially representing the appellant at the hearing):

Name: _____ Title: _____

b. Presenter (Name of person who will be presenting the appellant's case at the hearing):

Name: _____ Title: _____

5. Person to contact for information regarding this appeal request:

Name: _____ Title: _____

Telephone: _____ Times Available: _____

6. Any written documents (evidence) you wish to have referred to the hearing officer may be attached to this appeal request or may be mailed under a separate cover. (Note: If mailed separately, be sure to adhere to the deadline for submittal, and note the address of the Office of Administrative Hearings. Both items are referenced in the Appeal Procedures that accompany this form.)

SIGNATURE OF AUTHORIZED REPRESENTATIVE:	DATE:
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